

**ALASKA DEPARTMENT OF HEALTH  
AND SOCIAL SERVICES**

**AND**

**ALASKA DEPARTMENT OF ADMINISTRATION**

**.**

**PROPOSED AMENDMENTS TO REGULATIONS IN**

**2 AAC 42  
ASSISTED LIVING HOMES**

**AND**

**7 AAC 47  
GENERAL RELIEF**

**SECOND PUBLIC REVIEW DRAFT  
EXTENDING PUBLIC COMMENT PERIOD**

**AUGUST 27, 2001**

**COMMENT PERIOD ENDS  
SEPTEMBER 27, 2001  
SEE PUBLIC NOTICE FOR DETAILS**

**Notes to reader:**

**EXCEPT FOR THE REGULATIONS IN 2 AAC 42 (see below), CHANGES TO THE FIRST PUBLIC REVIEW DRAFT THAT WERE MADE IN RESPONSE TO PUBLIC COMMENTS, OR TO CLARIFY REQUIREMENTS, ARE IN BOLD ITALICS FOR YOUR EASE IN LOCATING THEM. IF AN ENTIRE SECTION IS NEW, ONLY THE DESCRIPTIVE LEAD-IN TO THAT SECTION IS IN ITALICS.**

**FOOTNOTES HAVE BEEN ADDED TO EXPLAIN SUBSTANTIVE CHANGES.**

**IMPORTANT CHANGE:** As stated in the public notice extending the comment period on these regulations, the Department of Law has determined that the current approach of covering the separate programs of the Department of Administration (DOA) (protection of vulnerable adults who are residents of assisted living homes) and the Department of Health and Social Services (DHSS) (general relief for all other eligible persons who are residents of assisted living homes) in one chapter (7 AAC 47) is inappropriate. Therefore, the DOA is proposing to create new regulations for DOA's program that will, for the most part, be identical to the DHSS regulations. Certain amendments will be made to each department's regulations to more closely describe each department's responsibilities. The changes are being proposed in a joint notice, with joint public hearings, because the two programs have been covered by the same regulations.

**The new DOA regulations in 2 AAC 42 will be set out as if the changes proposed for 7 AAC 47 were already made. Only if a change is being made to make the regulation specific to DOA will bold italics appear. Footnotes are added with a reference to the corresponding DHSS provision so you can easily locate that section and review proposed changes to existing law.**

**For the changes to 7 AAC 47:**

1. **Bolded and underlined text** is proposed to be added to or to replace text within existing regulations, with changes made after reviewing public comments *in bold italics*.
2. For your ease in locating other changes, **bolded text without underlining** is used for new sections or subsections, and for material that is being rewritten, rearranged, or replaced through the "repealed and readopted" method, with changes made after reviewing public comments *in bold italics*.
3. [ALL-CAPS TEXT WITHIN BRACKETS] is proposed to be deleted from existing regulations.

When the word "including" is used in this draft, Alaska Statutes provide that it means "including, but not limited to."

**TITLE 2. ADMINISTRATION.<sup>1</sup>**

**CHAPTER 42. ASSISTED LIVING HOMES.**

*A new contents list is added to 2 AAC 42 to read:*

**Article**

- 1. Standards for Assisted Living Homes (2 AAC 42.010)**
- 2. Protection of Vulnerable Adults in Assisted Living Homes (2 AAC 42.200 – 2 AAC 42.298)**
- 3. Hearing Procedures (2AAC 42.300 – 2 AAC 42.390)**
- 4. General Provisions (2 AAC 42.400)**

*Title 2 is amended by adding a new article to read:*

**ARTICLE 1. STANDARDS FOR ASSISTED LIVING HOMES.**

**Section**

10. Assisted living home regulations adopted by reference

**NOTE:** The following section is set out to show its place in the revised chapter.

**2 AAC 42.010. ASSISTED LIVING HOME REGULATIONS ADOPTED BY REFERENCE.** The assisted living home regulations in 7 AAC 75, as amended through \_\_\_\_\_, 200\_\_, were developed jointly by the Department of Administration and the Department of Health and Social Services. By the adoption of this section, they are made applicable to facilities licensed by the Department of Administration as well as to those licensed by the Department of Health and Social Services. (Eff. 7/1/95, Register 134; am \_\_\_\_/\_\_\_\_/2001, Register \_\_\_\_; am \_\_\_\_/\_\_\_\_/200\_\_)

<b>Authority:</b>	AS 47.33.005	AS 47.33.400	AS 47.33.540
	AS 47.33.040	AS 47.33.410	AS 47.33.920

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<sup>1</sup> Changes to regulations in Title 2 are to clarify that Department of Administration is responsible only for protection of vulnerable adults and that the financial assistance should not be referred to as “general relief,” since only the Department of Health and Social Services is responsible for general relief assistance. Additional technical changes to this chapter and to 7 AAC 47 may be necessary before adoption.

*2 AAC 42 is amended by adding a new article to read:*

**ARTICLE 2. PROTECTION OF VULNERABLE ADULTS  
IN ASSISTED LIVING HOMES.**

**Section**

**200. Applicability**

**205. Assisted living care**

**210. Assisted living home**

**215. Eligible individuals**

**220. Income limits**

**225. Resource limits**

**230. Relative responsibility**

**235. Concurrent applications; reimbursement to department by resident or by assisted living home**

**240. Alternative resources**

**245. Assistance application**

**250. Eligibility determination and placement**

**255. Availability of hearing**

**260. Report of change**

**265. Review of eligibility**

**270. Home grant agreement application**

**275. Payment by individual**

**280. Payment by department**

**285. Minimum daily reimbursement rates**

**290. Augmented rates**

**295. Services required to be provided by assisted living homes**

**296. Absence or discharge**

**297. Grant agreement**

**298. Emergency placement**

<sup>2</sup>**2 AAC 42.200. APPLICABILITY.** (a) The department has determined that a need exists among the state's *vulnerable* adult population for the availability of nonmedical residential care. *Except as provided in (b) of this section, the purpose of the program described in 2 AAC 42.200 – 2 AAC 42.298 is to provide financial assistance to needy vulnerable adults who require the protective oversight of an assisted living home. The program objective is to enable those adults to obtain the level of care that an individual could receive in the individual's own home from interested friends or relatives and to live in the least restrictive setting possible.*

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<sup>2</sup> This is DOA's version of DHSS's 7 AAC 47.300, with changes specific to DOA in italics.

*(b) Regulations dealing with general relief financial assistance available to residents of assisted living homes licensed by the Department of Health and Social Services are set out at 7 AAC 47.300 – 7 AAC 47.520. (Eff. \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)*

Authority: AS 47.24.011

AS 47.24.017

AS 47.33.920

<sup>3</sup>2 AAC 42.205. ASSISTED LIVING CARE. Assisted living care is a range of care described in AS 47.33 and 7 AAC 75, that includes more than housing and food service, but does not include continuous nursing or medical care. Assisted living care encompasses 24-hour supportive and protective services in the<sup>4</sup> activities of daily living and in the instrumental activities of daily living for *a vulnerable adult*, as those services are described in that individual's residential services contract executed under AS 47.33.210 and assisted living plan prepared under AS 47.33.220 and 47.33.230. The care is provided in a residential environment and encourages independent living to the extent possible for each resident. (Eff. \_\_\_\_/\_\_\_\_/2001, Register \_\_\_\_)

Authority: AS 47.24.011

AS 47.33.210

AS 47.33.230

AS 47.24.017

AS 47.33.220

AS 47.33.920

<sup>5</sup>2 AAC 42.210. ASSISTED LIVING HOME. In this chapter, an assisted living home is a home licensed by *the department* under AS 47.33 and 7 AAC 75, and with which the department has entered into an assisted living home grant agreement. (Eff. \_\_\_\_/\_\_\_\_, 2001, Register \_\_\_\_)

Authority: AS 47.24.011

AS 47.24.017

AS 47.33.920

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<sup>3</sup> This is DOA's version of DHSS's 7 AAC 47.310, set out as if all proposed changes to 7 AAC 47.310 will be made, with changes specific to DOA in italics.

<sup>4</sup> In response to public comments, "all" was replaced with "the" and reference to the contract and assisted living plan was added, to clarify that only those activities described in each resident's contract and plan are required to be provided. This better reflects the language of the statutes and other existing law, which state that assisted living care is more than room and board.

<sup>5</sup> This is DOA's version of DHSS's 7 AAC 47.320, set out as if all proposed changes to 7 AAC 47.320 will be made, with changes specific to DOA in italics

**<sup>6</sup>2 AAC 42.215. ELIGIBLE INDIVIDUALS.** A resident of the state *who is a vulnerable adult* is eligible to receive assistance under 2 AAC 42.200 - 2 AAC 42.298 if the individual

(1) is 18 years of age or older;

(2) has been assessed for eligibility by a care coordinator or other person approved by the department ;

(3) has

(A) a disability that is attributable to mental retardation, cerebral palsy, epilepsy, autism or another condition closely related to mental retardation that significantly impairs intellectual functioning and adaptive behavior;

(B) a hearing, speech, visual, orthopedic, or other major health impairment that significantly impedes participation in the social, economic, educational, recreational, and other activities generally available to the individual's nonimpaired peers in the community; or

(C) a significant deficit in adaptive behavior in the area of self-care, communication of needs, mobility, or independent living, which may be the result of the aging process, a major health impairment, an emotional health disturbance, or alcohol or drug dependence;

(4) without assisted living care is subject to, or at risk of, abuse, neglect, or exploitation by others;

(5) does not have income that exceeds the limit permitted by 2 AAC 42.220;

(6) does not have resources that exceed the amount permitted by 2 AAC 42.225;

(7) has applied for the cash assistance programs as required by 2 AAC 42.235(a); and

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<sup>6</sup> This is DOA's version of DHSS's 7 AAC 47.330, set out as if all proposed changes to 7 AAC 47.330 will be made, with changes specific to DOA in italics.

(8) has applied for financial assistance from other agencies, organizations, or programs as required by 2 AAC 42.235,<sup>7</sup> and has exhausted the use of alternative resources, if any, as required by 2 AAC 42.240(a). (Eff. \_\_\_\_/\_\_\_\_/2001, Register \_\_\_\_)

Authority: AS 47.24.011 AS 47.24.017 AS 47.33.920

<sup>8</sup>2 AAC 42.220. **INCOME LIMITS.** An individual is eligible for assistance under 2 AAC 42.200 - 2 AAC 42.298 if the individual

(1) has a total monthly countable income that does not exceed the income limit that applies to the individual under the financial eligibility criteria of the APA program. The definition of income, the income exclusions and the income computation applicable to the individual under the APA program are used to determine the monthly countable income of the individual who applies for assistance under this chapter; or

(2) has a total monthly countable income that does not exceed 300 percent of the maximum individual Supplemental Security Income (SSI) monthly income limit in effect on the date of application for assistance under this chapter. The definition of income, the income exclusions and the income computation applicable to a health care facility inpatient under the APA and Medicaid programs are used to determine the monthly countable income of the individual who applies for assistance under this chapter. (Eff. \_\_\_\_/\_\_\_\_/2001, Register \_\_\_\_)

Authority: AS 47.24.011 AS 47.24.017 AS 46.33.920

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<sup>7</sup> This section was changed to make it consistent with similar changes to this chapter, and to clarify the intent of the existing requirement that all alternative resources are to be applied before a person is eligible for assistance under this chapter, updating the regulation to reflect changes in the law since this regulation was first written.

<sup>8</sup> This is DOA's version of DHSS's 7 AAC 47.340, with changes specific to DOA in italics.

<sup>9</sup>2 AAC 42.225. **RESOURCE LIMITS.** An individual is eligible for assistance under 2 AAC 42.200 - 2 AAC 42.298 if the individual has total resources that do not exceed the amount that applies to the individual under the financial eligibility criteria of the Adult Public Assistance (APA) program. The definition of resources, the excluded resources and the disposal of excess resources provision applicable to the individual under the APA program are used to determine the total resources of the individual who applies for assistance under 2 AAC 42.200 - 2 AAC 42.298. (Eff. \_\_\_\_/\_\_\_\_/2001, Register \_\_\_\_)

Authority: AS 47.24.011 AS 47.24.017 AS 46.33.920

<sup>10</sup>2 AAC 42.230. **RELATIVE RESPONSIBILITY.** (a) The income and resources of a spouse and parent are considered available to an individual under 2 AAC 42.220 and 2 AAC 42.225 to the extent to which they are considered available to the individual under the financial eligibility criteria of the APA program. The APA income and resource definitions and exclusions of a spouse and parent are used to determine the total monthly countable income and total resources of the individual who applies for assistance under this chapter.

(b) The income and resources of an individual's child may be considered available to an individual, if

- (1) the child is 18 years of age or older;
- (2) the child qualifies as the individual's child for purposes of intestate succession in this state;
- (3) the individual has no available income or resources from a spouse or parent under (a) of this section; and
- (4) the department determines that the child has sufficient income and resources to enable the child to contribute to or pay the individual's cost of care.

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<sup>9</sup> This is DOA's version of DHSS's 7 AAC 47.350, with changes specific to DOA in italics.

<sup>10</sup> This is DOA's version of DHSS's 7 AAC 47.360, set out as if all proposed changes to 7 AAC 47.360 will be made, with changes specific to DOA in italics.



(c) On the basis of the department's determination under (b)(4) of this section, the department may consider as available to the individual an appropriate portion of the child's income and resources. If the child fails or refuses to support the individual and to make available the income and resources considered available, the department will determine the individual's eligibility for assistance under this chapter without regard to the child's income and resources. In that event, the department will give the child written notice of the decision and may file a civil action to recover the child's share of the cost of care. (Eff. \_\_\_/\_\_\_/2001, Register \_\_\_)

Authority: AS 47.24.011

AS 47.24.017

AS 46.33.920

<sup>11</sup>2 AAC 42.235. CONCURRENT APPLICATIONS; REIMBURSEMENT TO DEPARTMENT BY RESIDENT AND BY ASSISTED LIVING HOME. (a) In addition to applying for the programs listed in 2 AAC 42.240(a) and (b), an individual who applies for assistance under 2 AAC 42.200 - 2 AAC 42.298 must also submit an application to each agency, organization, or program that provides financial assistance for which the individual may be eligible, including Social Security, SSI, Medicaid, APA, and the Home and Community-Based Waiver Services Program under 7 AAC 43.1000 - 7 AAC 43.1100. Each concurrent application must be submitted within 30 days after filing an application for assistance under 2 AAC 42.200 - 2 AAC 42.298. The department may assist the individual in submitting each application. The individual's failure to apply for each designated program will result in denial of assistance under 2 AAC 42.200 - 2 AAC 42.298, unless the department determines that the individual is patently ineligible for a specified program.

(b) The department may also require an individual to apply for other benefits for which the department believes the individual is eligible. These benefits include veteran's and disability insurance benefits, worker's compensation, unemployment compensation, retirement system benefits, awards, and annuities. The individual's failure to apply for the benefits, after being given 30 days' written notice of the request, may result in denial of assistance under 2 AAC 42.200 - 2 AAC 42.298.

(c) A resident of an assisted living home, placed in the home under 2 AAC 42.200 - 2 AAC 42.298, who is later determined eligible for other assistance applied for as required by (a) and (b) of this section shall

(1) inform the department of any payments or benefits for which the resident has been determined eligible; and

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<sup>11</sup> This is DOA's version of DHSS's 7 AAC 47.370, set out as if all proposed changes to 7 AAC 47.370 will be made, with changes specific to DOA in italics.

(2) forward to the department any retroactive payments received, up to the amount the department has provided for that resident under 2 AAC 42.200 – 2 AAC 42.298.

(d) If an assisted living home receives a retroactive payment from another agency, organization, or program for providing care to a resident receiving assistance under 2 AAC 42.200 – 2 AAC 42.298, the administrator shall forward that payment to the department, up to the amount the department has provided for that resident under 2 AAC 42.200 – 2 AAC 42.298.

(e) The department may require an assignment of rights to bill for and receive reimbursement for assistance provided under 2 AAC 42.200 – 2 AAC 42.298 from

(1) a resident receiving assistance under 2 AAC 42.200 – 2 AAC 42.298; or

(2) an assisted living home that is entitled to receive a retroactive payment from another agency, organization, or program for providing care to a resident receiving assistance under 2 AAC 42.200 – 2 AAC 42.298. (Eff. \_\_\_\_/\_\_\_\_/2001, Register \_\_\_\_)

Authority: AS 47.24.011 AS 47.24.017 AS 46.33.920

<sup>12</sup>2 AAC 42.240. ALTERNATIVE RESOURCES. (a) An individual who is eligible for one or more of the following programs will not be eligible for assistance under 2 AAC 42.200 – 2 AAC 42.298 until available benefits under each of the programs have been exhausted:

(1) a 24-hour care or treatment program financed by the office of alcoholism and drug abuse under AS 47.37; and

(2) an inpatient mental health program for the mentally ill financed by the department under AS 47.30.010 - 47.30.340.

(b) An individual who is eligible for assisted living care, or for a training program for the developmentally disabled under AS 47.80, will be eligible for assistance under 2 AAC 42.200 – 2 AAC 42.298 only if there is space available in an assisted living home after placement of individuals who are not eligible for that type of program.

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<sup>12</sup> This is DOA's version of DHSS's 7 AAC 47.380, set out as if all proposed changes to 7 AAC 47.380 will be made, with changes specific to DOA in italics.

(c) An individual who has applied for residential supported living services under 7 AAC 43.1000 - 7 AAC 43.1100 will not be placed in an assisted living home under 2 AAC 42.200 – 2 AAC 42.298 until residential supportive living services have been authorized under 7 AAC 43.1000 - 7 AAC 43.1100, unless care cannot be provided in that individual's home, or in a nursing facility, acute care hospital, or other appropriate facility.

(d) An individual must apply for each program specified in (a) and (b) of this section for which the department believes the individual is eligible and must apply for the program specified in (c) of this section as required by 2 AAC 42.235. The department may assist the individual in submitting an application. An individual who fails to apply for each designated program, after being given 30 days' written notice of the requirement, will be denied assistance under 2 AAC 42.200 – 2 AAC 42.298. (Eff. \_\_\_/\_\_\_/2001, Register \_\_\_)

Authority: AS 47.24.011 AS 47.24.017 AS 46.33.920

<sup>13</sup>2 AAC 42.245. ASSISTANCE APPLICATION. (a) A *vulnerable adult*, age 18 or older, may apply for assistance under 2 AAC 42.200 – 2 AAC 42.298 on the form provided at a *division* office of the department. The *vulnerable adult*, or a responsible person acting on behalf of the *vulnerable adult*, must complete the application.

(b) If the department determines that the applicant meets the eligibility criteria established in 2 AAC 42.220, 2 AAC 42.225, 2 AAC 42.235, and 2 AAC 42.240, the applicant must submit to a medical examination by a licensed physician chosen by the applicant from those physicians enrolled with the *Department of Health and Social Services* under 7 AAC 43. The physician shall furnish the department a written report on the form provided by the department. The department may pay the costs of the examination and necessary transportation to and from the place of examination if the applicant requires immediate protection and if the department has funding available.

(c) The department may dispense with the medical examination requirement in (b) of this section if a current medical report is available. (Eff. \_\_\_/\_\_\_/2001, Register \_\_\_)

Authority: AS 47.24.011 AS 47.24.017 AS 46.33.920

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<sup>13</sup> This is DOA's version of DHSS's 7 AAC 47.390, set out as if all proposed changes to 7 AAC 47.390 will be made, with changes specific to DOA in italics.

**<sup>14</sup>2 AAC 42.250. ELIGIBILITY DETERMINATION AND PLACEMENT. (a)** Within 30 days after the department receives an identifiable application for assistance under 2 AAC 42.200 – 2 AAC 42.298, the department will forward a written eligibility decision to the applicant. The time period may be extended by agreement of the applicant and the department when a decision cannot be rendered because of a factor that is beyond the control of the applicant or the department.

(b) After consulting with an eligible individual and available family members, the department will select an appropriate assisted living home with available space for placement of that individual. The division of vocational rehabilitation, in the Department of Education and Early Development, will be consulted on the placement of a vocational rehabilitation client.

(c) The department will at least semiannually review the individual's placement to determine whether the individual continues to need assisted living care and whether the particular assisted living home continues to meet the individual's needs.  
(Eff. \_\_\_\_/\_\_\_\_/2001, Register \_\_\_\_)

Authority: AS 47.24.011 AS 47.24.017 AS 46.33.920

**<sup>15</sup>2 AAC 42.255. AVAILABILITY OF HEARING. (a)** An individual is entitled to a prompt hearing before a department representative, upon oral or written request directed to any division employee, if

(1) the individual's application is not acted upon within 30 days after receipt by the department;

(2) the individual's application is modified or denied; or

(3) the individual's assistance is reduced or discontinued.

(b) The hearing will be conducted under the procedures established in 2 AAC 42.300 – 2 AAC 423.390. (Eff. \_\_\_\_/\_\_\_\_/2001, Register \_\_\_\_)

Authority: AS 47.24.011 AS 47.24.017 AS 46.33.920

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<sup>14</sup> This is DOA's version of DHSS's 7 AAC 47.400, set out as if all proposed changes to 7 AAC 47.400 will be made, with changes specific to DOA in italics.

<sup>15</sup> This is DOA's version of DHSS's 7 AAC 47.410, set out as if all proposed changes to 7 AAC 47.410 will be made.

<sup>16</sup>2 AAC 42.260. **REPORT OF CHANGE.** An individual receiving assistance under 2 AAC 42.200 – 2 AAC 43.298 must report to the department any change in circumstances that could affect eligibility or the amount of assistance. A report of change must be made within 10 days after the event occurs, and may be made by a responsible person acting on behalf of the individual. (Eff. \_\_\_\_/\_\_\_\_/2001, Register \_\_\_\_)

Authority: AS 47.24.011 AS 47.24.017 AS 46.33.920

<sup>17</sup>2 AAC 42.265. **REVIEW OF ELIGIBILITY.** (a) Upon receiving information indicating a change in an individual's situation that could affect eligibility or the amount of assistance under 2 AAC 42.200 – 2 AAC 43.298, the department will investigate and, if necessary, adjust, suspend, or terminate the assistance.

(b) An individual who receives assistance under 2 AAC 42.200 – 2 AAC 43.298, or a responsible person acting on behalf of the individual, must annually complete a review application. As a result of this review procedure, the department may continue, adjust, suspend, or terminate the assistance.

(c) Upon taking action under either (a) or (b) of this section, the department will provide notice as required by 2 AAC 42.0325. (Eff. \_\_\_\_/\_\_\_\_/2001, Register \_\_\_\_)

Authority: AS 47.24.011 AS 47.24.017 AS 46.33.920

<sup>18</sup>2 AAC 42.270. **HOME GRANT AGREEMENT APPLICATION.** Application for an assisted living home grant agreement must be made on a form prescribed by the department. The department will annually send an application form to each assisted living home licensed by the department under AS 47.33 and 7 AAC 75. The home must submit the application to the department within 30 days after receiving the form to be considered eligible for an agreement. (Eff. \_\_\_\_/\_\_\_\_/2001, Register \_\_\_\_)

Authority: AS 47.24.011 AS 47.24.017 AS 46.33.920

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<sup>16</sup> This is DOA's version of DHSS's 7 AAC 47.420, set out as if all proposed changes to 7 AAC 47.420 will be made, with changes specific to DOA in italics.

<sup>17</sup> This is DOA's version of DHSS's 7 AAC 47.430, set out as if all proposed changes to 7 AAC 47.430 will be made, with changes specific to DOA in italics.

<sup>18</sup> This is DOA's version of DHSS's 7 AAC 47.440, set out as if all proposed changes to 7 AAC 47.440 will be made, with changes specific to DOA in italics.

**<sup>19</sup>2 AAC 42.275. PAYMENT BY INDIVIDUAL.** (a) The total monthly countable income considered available to an individual under *2 AAC 42.220 and 2 AAC 42.230*, plus APA benefits and the Alaska longevity bonus payment, if applicable, and any other financial assistance for which the individual may be eligible will be applied first toward the personal-needs allowance required by (b) of this section, and then toward the cost of the individual's assisted living care.

(b) An individual may retain the following amount of the total monthly countable income as a personal-needs allowance, which may be used for clothing, unreimbursable medical expenses, and personal incidentals:

(1) \$100 for an individual who is eligible for Medicaid or chronic and acute medical assistance coverage; and

(2) \$150 for an individual who is not eligible for Medicaid or chronic and acute medical assistance coverage.

(c) The department will inform the individual and the assisted living home of the amount of the individual's share of the cost of care. The home shall collect the amount directly from the individual.

(d) An assisted living home may not request or accept from or on behalf of an individual who receives assistance under this chapter

(1) any payment in excess of the amount specified in (c) of this section; or

(2) any payment from another agency, organization, or program for any portion of the resident's care provided under this chapter, and shall reimburse the department as specified in 7 AAC 47.370(d) if such excess payment is received.  
(Eff. \_\_\_/\_\_\_/2001, Register \_\_\_)

Authority: AS 47.24.011

AS 47.24.017

AS 46.33.920

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<sup>19</sup> This is DOA's version of DHSS's 7 AAC 47.450, set out as if all proposed changes to 7 AAC 47.450 will be made, with changes specific to DOA in italics.

<sup>20</sup>2 AAC 42.280. PAYMENT BY THE DEPARTMENT. (a) For an individual who is placed by the department in an assisted living home under 2 AAC 42.250, the department will pay the appropriate minimum daily reimbursement rate established by 2AAC 42.285, multiplied by the number of days of actual residence, minus the individual's share of the cost of care as calculated under 2 AAC 42.275. The payment will be made directly to the home on a monthly basis for services provided under 2 AAC 42.295.

(b) Payment will be made to the home for the day of admission of an individual but not for the day of departure.

(c) The department's payment will not increase to compensate for the withholding of an individual's Social Security, Supplemental Security Income, or APA benefit when the withholding is due to a fraudulent overpayment or failure to report a change.

(d) If an individual placed by the department in an assisted living home has no income, the department may pay a personal-needs allowance of \$100. The home shall give this personal needs allowance to the individual, unless the home has obtained written authorization under 7 AAC 75.310 to manage the individual's personal needs allowance, or management of the allowance is included in the individual's residential services contract executed under AS 47.33.210 and assisted living plan prepared under AS 47.33.220 and 47.33.230. (Eff. \_\_\_/\_\_\_/2001, Register \_\_\_)

Authority: AS 47.24.011 AS 47.24.017 AS 46.33.920

<sup>21</sup>2 AAC 42.285. MINIMUM DAILY REIMBURSEMENT RATES. (a) The minimum daily reimbursement rate set in this subsection is for each individual placed in an assisted living home by the department under 2 AAC 42.250 and is to assist in payment for housing and food service, and for the basic services described in 2 AAC 42.295. Subject to (b) and (c) of this section, the minimum daily reimbursement rate is

(1) \$50 from September 1, 2000 through June 30, 2001;

(2) \$60 from July 1, 2001 through June 30, 2002; and

(3) \$70 beginning July 1, 2002.

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<sup>20</sup> This is DOA's version of DHSS's 7 AAC 47.460, set out as if all proposed changes to 7 AAC 47.460 will be made, with changes specific to DOA in italics.

<sup>21</sup> This is DOA's version of DHSS's 7 AAC 47.470, set out as if all proposed changes to 7 AAC 47.470 will be made, with changes specific to DOA in italics.

**(b) The rate set in (a) of this section will be adjusted to reflect regional differences in the cost of doing business, based on the region in which the provider is located. The rate adjustments, listed by the designated planning regions described at page 62 of the Alaska State Plan 1993-1997, issued by the Older Alaskans Commission in June 1993, and adopted by reference, are as follows:**

- (1) for the Anchorage region – no adjustment;**
- (2) for the southcentral region, not including Anchorage – 1.04;**
- (3) for the southeast region – no adjustment;**
- (4) for the interior region – 1.15;**
- (5) for the southwest region – 1.33; and**
- (6) for the northwest region – 1.38.**

**(c) The department will annually review the minimum daily reimbursement rate in (a) of this section and the multiplying factor in (b) of this section and may adjust the rate to reflect changes in the United States Department of Labor consumer price index and the state cost-of-living differentials determined by the department and the Alaska Commission on Aging.**

**(d) The minimum daily reimbursement rate paid on behalf of a resident will be discontinued for any day the resident is not living in the assisted living home unless the department approves a temporary absence from the home, not to exceed 30 days.**



(e) For purposes of determining eligibility for financial assistance under this section and from other agencies, organizations, or programs, 40 percent of the minimum daily rate under (a) of this section, before adjustment under (b) or (c) of this section, will be considered payment for housing and food service, with the balance considered payment for services. If a resident is eligible for financial assistance from another agency, organization, or program for the cost of services provided in the assisted living home, that resident will be eligible under this section for only housing and food service.<sup>22</sup> (Eff. \_\_\_\_/\_\_\_\_/2001, Register \_\_\_\_)

Authority: AS 47.24.011

AS 47.24.017

AS 46.33.920

**Editor's note:** A copy of the Alaska State Plan 1993-1997, issued by the Older Alaskans Commission in June 1993, and adopted by reference in 7 AAC 47.470, may be reviewed at the offices of the Division of Senior Services, 3601 C Street, Suite 310, Anchorage, AK 99503; telephone (907) 269-3666.

<sup>23</sup>2 AAC 42.290. **AUGMENTED RATES.** (a) The department may augment the minimum daily reimbursement rate set in 2 AAC 42.285 if a resident requires assistance with *four or more activities of daily living*, or if a resident requires a level of care, monitoring, and protective service that is significantly higher than that required for other residents of the home, including other residents with an impairment described in this subsection, to protect the resident from abuse, neglect, or exploitation because of

(1) severe alcohol or drug dependency acting out behavior, including use of alcohol or drugs in or out of the home;

(2) severe mental health, mental impairment, or emotional disturbance issues resulting in disruptive acting out behaviors, including aggressive, violent, offensive, or assaultive behavior;

(3) a major health impairment; or

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<sup>22</sup> This subsection was added after review of public comments indicated there was a misunderstanding regarding the intended use of general relief assistance. Existing law states it is for "more than room and board," so a percentage is being set in regulation to aid in applying for assistance from other agencies, organizations, and programs for the amount not covered by general relief.

<sup>23</sup> This was presented as 7 AAC 47.471 in the first public review draft. In response to public comments, the changes to this section, shown in italics, have been made to clarify when a resident becomes eligible for the augmented rate, and how much will be allocated for each category of care required.

(4) other variables or factors that make the resident extremely difficult to place and protect in an assisted living home.

(b) An augmented rate of \$1 to \$22 per day will be paid for each resident described in (a) of this section if the department finds that the resident is eligible for an augmented rate. *The amount of the augmented rate will be based on the number of activities of daily living provided, and the level of care, monitoring, and protective services required as follows:*

*(1) for a resident who requires assistance with four or more activities of daily living, the augmented rate will be \$7 per day;*

*(2) for a resident described in (a)(1), (2), (3), or (4), the augmented rate will be \$15 per day; and*

*(3) for a resident who requires assistance with four or more activities of daily living and who is described in (a)(1), (2), (3), or (4) of this section, the augmented rate will be \$22 per day.*

*(c) For an emergency placement, an additional augmented rate of up to \$10 per day will be paid for a person described in (b)(1) or (2) of this section, not to exceed \$22 per day. An augmented rate under this subsection will be paid for no more than 30 days.*

*(d) An augmented rate paid on behalf of a resident will be discontinued for any day the resident is not living in the assisted living home. (Eff. \_\_\_\_/\_\_\_\_/2001, Register \_\_\_\_)*

Authority: AS 47.24.011

AS 47.24.017

AS 47.33.920

<sup>24</sup>2 AAC 42.295. **SERVICES REQUIRED TO BE PROVIDED BY ASSISTED LIVING HOMES.** (a) An assisted living home must provide housing, food service, and all other services that are required to meet the purposes of this chapter, AS 47.33, and 7 AAC 75. Housing, food service, and other services must be provided in a way that promotes each resident's safety, welfare, and independence and that assures protection of each resident's rights under AS 47.33.300 -- 47.33.360.

(b) In addition to the housing and food service requirements of 7 AAC 75, the basic services required under this section, depending on each resident's needs as described in each resident's residential services contract executed under AS 47.33.210 and assisted living plan prepared under AS 47.33.220 and 47.33.230, include

- (1) the general range of care described in 7 AAC 47.310;
- (2) protective services;
- (3) personal assistance;
- (4) supportive services;
- (5) assistance with the activities of daily living and the instrumental activities of daily living indicated in a resident's assisted living plan;
- (6) an organized program that encourages participation in activities within the home and the community;
- (7) general awareness of each resident's general whereabouts, in the home and in the community;
- (8) monitoring each resident's activities while on the premises; and
- (9) arranging for or providing transportation to and from appointments if a resident is unable to take public transportation, and arranging for or providing an escort, if needed.

(c) In addition to the basic services listed in (b) of this section, an assisted living home may provide the additional health-related services described in AS 47.33.020(c)-(i).

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<sup>24</sup> This is DOA's version of DHSS's 7 AAC 47.475, set out as if all proposed changes to 7 AAC 47.475 will be made. In response to public comments, this section was clarified to reflect that services are those set out in a resident's contract and plan.

(d) For purposes of determining eligibility for financial assistance from other agencies, organizations, or programs for services provided, 40 percent of the minimum daily rate under 2 AAC 42.285(a), before adjustment under 2 AAC 42.285(b) or (c), will be considered payment for housing and food service, with the balance considered payment for services. If a resident is eligible for financial assistance from another agency, organization, or program for the cost of services provided in the assisted living home, that resident will be eligible under 2 AAC 42.200 – 2 AAC 43.298 for only housing and food service.<sup>25</sup> (Eff. \_\_\_\_/\_\_\_\_/2001, Register \_\_\_\_)

Authority: AS 47.24.011 AS 47.24.017 AS 47.33.920

<sup>26</sup>2 AAC 42.296. ABSENCE OR DISCHARGE. (a) A home with which the department has entered into an assisted living home grant agreement shall immediately report the death or voluntary discharge of an individual who receives assistance under 2 AAC 42.200 – 2 AAC 43.298 to the department. A home shall give the department 30 days' advance written notice of an involuntary discharge by the home of an individual who receives assistance under 2 AAC 42.200 – 2 AAC 43.298, unless the discharge is for medical reasons or an emergency transfer out of the home is ordered by the individual's physician.

(b) A home shall immediately report the absence of an individual who receives assistance under 2 AAC 42.200 – 2 AAC 43.298 to the department, unless the absence is for social reasons and will not exceed three days. No payment for assistance under 2 AAC 42.200 – 2 AAC 43.298 will be made by the department for a social absence exceeding three days, unless it is previously approved by the department. (Eff. \_\_\_\_/\_\_\_\_/2001, Register \_\_\_\_)

Authority: AS 47.24.011 AS 47.24.017 AS 47.33.920

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<sup>25</sup> This subsection was added after review of public comments indicated there was a misunderstanding regarding the intended use of the financial assistance provided under this chapter. Existing law states it is for “more than room and board,” so a percentage is being set in regulation to aid in applying for assistance from other agencies, organizations, and programs for the amount not covered by financial assistance under this chapter.

<sup>26</sup> This is DOA’s version of DHSS’s 7 AAC 47.490, set out as if all proposed changes to 7 AAC 47.490 will be made, with changes specific to DOA in italics.

<sup>27</sup>2 AAC 42.297. GRANT AGREEMENT. (a) An assisted living home grant agreement between the department and an assisted living home issued under this chapter will

(1) include the appropriate minimum daily reimbursement rate for an individual placed in a home by the department; and

(2) incorporate by reference each resident's residential service contract executed under AS 47.33.210 and assisted living plan prepared under AS 47.33.220 and 47.33.230, that describe the services the home must provide the individual in accordance with AS 47.24, AS 47.33, 2 AAC 42.295, and 7 AAC 75.

(b) A home must agree

(1) to accept as residents those individuals referred by the department;

(2) to enter into an admission and services agreement with the department for each individual placed in its care and provide the services described in the documents incorporated by reference under (a)(2) of this section;

(3) to comply with the rule established in 2 AAC 42.275(d); and

(4) to report to the department any absence or discharge required to be reported by 2 AAC 42.296.

(c) The agreement may be terminated by either party upon 30 days' advance written notice to the other party. The agreement may be terminated by the department if the home's license is modified under AS 47.33.550 or 7 AAC 75.080, or if the home fails to comply with the terms contained in (a) and (b) of this section. The department may immediately terminate an agreement if the home's license is revoked. (Eff. \_\_\_\_/\_\_\_\_/2001, Register \_\_\_\_)

Authority: AS 47.24.011

AS 47.24.017

AS 47.33.920

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<sup>27</sup> This is DOA's version of DHSS's 7 AAC 47.500, set out as if all proposed changes to 7 AAC 47.500 will be made, with changes specific to DOA in italics.

<sup>28</sup>7 AAC 47.510. EMERGENCY PLACEMENT. (a) A home with which the department has entered into an assisted living home grant agreement may admit an individual without an earlier eligibility determination under 2 AAC 42.250, if the department determines that the individual is immediately subject to, or at risk of, abuse, neglect, or exploitation, and has no immediately available residential care.

(b) For an emergency placement under (a) of this section, the department will pay for not more than 30 days of actual residence before the individual receives an eligibility determination under 2 AAC 42.250. (Eff. \_\_\_\_/\_\_\_\_/2001, Register \_\_\_\_)

Authority: AS 47.24.011

AS 47.24.017

AS 47.33.920

*Title 2 is amended by adding a new article to read:*

### ARTICLE 3. HEARING PROCEDURES.

#### Section

300. Applicability

305. Opportunity for hearing

310. Request for hearing

315. Time limit on availability of hearing

320. Notice of changes in the law

325. Notice of proposed agency action

330. Contents of notice

335. Time and place of hearing

340. Group hearings

345. Denial or dismissal of hearing

350. Assistance to clients

355. Conduct of hearings

360. Medical evidence

365. Hearing authority

370. Decision of hearing authority

375. Continuation of assistance; liability

380. Retroactive assistance

385. Appeal to the director; notice of appeal decision

390. Decisions public

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<sup>28</sup> This is DOA's version of DHSS's 7 AAC 47.510, set out as if all proposed changes to 7 AAC 47.510 will be made, with changes specific to DOA in italics.

<sup>29</sup>**2 AAC 42.300. APPLICABILITY.** The provisions of 2 AAC 42.300 – 2 AAC 42.390 apply to applicants for and recipients of financial assistance granted by the division under 2 AAC 42.200 – 2 AAC 42.298 for the protection of vulnerable adults who are residents of assisted living homes. (Eff. \_\_\_\_/\_\_\_\_/2001, Register \_\_\_\_)

Authority: AS 47.24.011 AS 47.24.017 AS 47.33.920

<sup>30</sup>**2 AAC 42.305. OPPORTUNITY FOR HEARING.** An opportunity for a hearing must be granted to a client whose

(1) request for an application under this chapter is denied;

(2) claim to financial assistance contained in an application submitted under this chapter, is denied or is not acted upon with reasonable promptness; or

(3) receipt of financial assistance the division intends to modify or terminate. (Eff. \_\_\_\_/\_\_\_\_/2001, Register \_\_\_\_)

Authority: AS 47.24.011 AS 47.24.017 AS 47.33.920

<sup>31</sup>**2 AAC 42.310. REQUEST FOR HEARING.** A request for a hearing within the scope of 2 AAC 42.305 may be made to the division orally or in writing by a client, or by a responsible person acting on the client's behalf. (Eff. \_\_\_\_/\_\_\_\_/2001, Register \_\_\_\_)

Authority: AS 47.24.011 AS 47.24.017 AS 47.33.920

<sup>32</sup>**2 AAC 42.315. TIME LIMIT ON AVAILABILITY OF HEARING.** A hearing is available upon request only for a client who makes an oral request or mails a written request within 30 days after receipt of notice of the division action by which they are aggrieved. (Eff. \_\_\_\_/\_\_\_\_/2001, Register \_\_\_\_)

Authority: AS 47.24.011 AS 47.24.017 AS 47.33.920

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<sup>29</sup> This is DOA's version of DHSS's 7 AAC 49.010, changed to reflect DOA's responsibilities.

<sup>30</sup> This is DOA's version of DHSS's 7 AAC 49.020, changed to reflect DOA's responsibilities.

<sup>31</sup> This is DOA's version of DHSS's 7 AAC 49.030, changed to reflect DOA's responsibilities.

<sup>32</sup> This is DOA's version of DHSS's 7 AAC 49.040, changed to reflect DOA's responsibilities.

<sup>33</sup>2 AAC 42.320. NOTICE OF CHANGES IN THE LAW. The division shall send a notice to affected recipients when changes in applicable law require automatic adjustment of financial assistance received under this chapter that would adversely affect a group of recipients or all recipients. This notice must contain a statement of the specific change in the law requiring the adjustment, and statement of the recipient's right to a hearing if the recipient disagrees with the division's computation of the financial assistance that will be paid for that recipient under the new law. (Eff. \_\_\_\_/\_\_\_\_/2001, Register \_\_\_\_)

Authority: AS 47.24.011 AS 47.24.017 AS 47.33.920

<sup>34</sup>2 AAC 42.325. NOTICE OF PROPOSED AGENCY ACTION. The division shall give written notice to the client at least 10 days before the date the division intends to take action denying, suspending, reducing, or terminating assistance under this chapter, unless

(1) factual evidence exists of the client's death;

(2) a client indicates in writing that the client no longer desires assistance, or gives information that requests termination or reduction of assistance and also indicates in writing that the client understands the consequences of reporting this information;

(3) a client has been admitted or committed to an institution or facility other than an assisted living home, and is no longer eligible for assistance under this chapter;

(4) the client's whereabouts are unknown and department mail directed to the client's last known address has been returned by the post office indicating no known forwarding address; or

(5) factual evidence exists that a client has been accepted for assistance in another jurisdiction. (Eff. \_\_\_\_/\_\_\_\_/2001, Register \_\_\_\_)

Authority: AS 47.24.011 AS 47.24.017 AS 47.33.920

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<sup>33</sup> This is DOA's version of DHSS's 7 AAC 49.050, changed to reflect DOA's responsibilities.

<sup>34</sup> This is DOA's version of DHSS's 7 AAC 49.060, changed to reflect DOA's responsibilities.



<sup>35</sup>2 AAC 42.330. CONTENTS OF NOTICE. Written notice to the client must detail the reasons for the proposed adverse action, including the statute, regulation, or policy upon which that action is based. The notice must also inform the client of the client's right to a hearing, how to request a hearing, that if the client wishes, the division shall assist the client in making a hearing request, by whom the client may be represented at a hearing, and the conditions, if any, under which assistance may continue if a hearing is requested. (Eff. \_\_\_\_/\_\_\_\_/2001, Register \_\_\_\_)

Authority: AS 47.24.011 AS 47.24.017 AS 47.33.920

<sup>36</sup>2 AAC 43.335. TIME AND PLACE OF HEARING. Within 10 days after the division receives a hearing request, and at least 15 days before the date the hearing is scheduled, unless the client agrees to a shorter time period, the division shall mail a notice to the client stating the time, date, and place of the hearing. The place must be one reasonably convenient to the client and the division. (Eff. \_\_\_\_/\_\_\_\_/2001, Register \_\_\_\_)

Authority: AS 47.24.011 AS 47.24.017 AS 47.33.920

<sup>37</sup>2 AAC 42.340. GROUP HEARINGS. The hearing authority may consolidate a series of individual requests for hearing by conducting a single group hearing if the sole issue involved is one of state or federal law, regulation, or policy, or changes in state or federal law, regulation, or policy. A consolidation of requests does not affect the right of a member of the group to withdraw from the group before or during the group hearing in favor of an individual hearing, and does not affect the right of each member of the group to present the member's own case or be represented by the member's authorized representative at the group hearing. The hearing authority shall inform each individual affected by a consolidation of requests that a consolidation has been made and that the right to individual withdrawal exists. (Eff. \_\_\_\_/\_\_\_\_/2001, Register \_\_\_\_)

Authority: AS 47.24.011 AS 47.24.017 AS 47.33.920

<sup>38</sup>2 AAC 42.345. DENIAL OR DISMISSAL OF HEARING. The hearing authority may deny or dismiss a hearing request or terminate a hearing if

(1) the issue by which the client is aggrieved is not one of those set out in 2 AAC 42.305;

(2) the client withdraws the request in writing;

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<sup>35</sup> This is DOA's version of DHSS's 7 AAC 49.070, changed to reflect DOA's responsibilities.

<sup>36</sup> This is DOA's version of DHSS's 7 AAC 49.080, changed to reflect DOA's responsibilities.

<sup>37</sup> This is DOA's version of DHSS's 7 AAC 49.090, changed to reflect DOA's responsibilities.

<sup>38</sup> This is DOA's version of DHSS's 7 AAC 49.100, changed to reflect DOA's responsibilities.

(3) the sole issue deals with a law requiring automatic adjustment of financial assistance affecting a group of recipients or all recipients, and the issue is not one of incorrect computation; or

(4) the client fails, without good cause as determined by the hearing authority, to appear in person, telephonically, or by authorized representative at the scheduled hearing. (Eff. \_\_\_\_/\_\_\_\_/2001, Register \_\_\_\_)

Authority: AS 47.24.011 AS 47.24.017 AS 47.33.920

<sup>39</sup>2 AAC 42.350. ASSISTANCE TO CLIENTS. Upon oral or written request by a client, the division shall provide assistance, as appropriate, in requesting a hearing, in obtaining representation at the hearing, in preparing the client's case, and in gathering witnesses and documents to be used in presenting the client's claim. (Eff. \_\_\_\_/\_\_\_\_/2001, Register \_\_\_\_)

Authority: AS 47.24.011 AS 47.24.017 AS 47.33.920

<sup>40</sup>2 AAC 42.355. CONDUCT OF HEARINGS. The division, the client, or the client's authorized representative has the right to

(1) adequate time to examine documents before the hearing to permit preparation of the case;

(2) self-representation, representation by an attorney, or representation by any other person who may be helpful in presenting the case;

(3) present witnesses and documents pertinent to the case;

(4) establish facts and advance arguments pertinent to the case;

(5) question or refute testimony or evidence, including the opportunity to confront and cross-examine adverse witnesses. (Eff. \_\_\_\_/\_\_\_\_/2001, Register \_\_\_\_)

Authority: AS 47.24.011 AS 47.24.017 AS 47.33.920

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<sup>39</sup> This is DOA's version of DHSS's 7 AAC 49.110, changed to reflect DOA's responsibilities.

<sup>40</sup> This is DOA's version of DHSS's 7 AAC 49.120, changed to reflect DOA's responsibilities.

<sup>41</sup>2 AAC 42.360. MEDICAL EVIDENCE. If the hearing involves medical issues, the division shall provide for a medical assessment by a qualified person acceptable to the client and the division. However, this person may not be the person who was directly involved in making the decision that is at issue in the hearing. (Eff. \_\_\_\_/\_\_\_\_/2001, Register \_\_\_\_)

Authority: AS 47.24.011 AS 47.24.017 AS 47.33.920

<sup>42</sup>2 AAC 42.365. HEARING AUTHORITY. (a) If a client requests a hearing, the commissioner or the commissioner's designee shall appoint a hearing authority with power to decide the dispute, subject only to appeal to the director. The hearing authority shall be an employee of the department who has not participated in the action at issue.

(b) The hearing authority shall hold the hearing and receive any testimony, evidence, and material introduced at the hearing. The hearing authority shall render a decision based on the applicable statutes, regulations, and policies, and on the hearing record, and shall furnish the client with a written decision. The decision must state the reason for that decision, the evidence and the statutes or regulations supporting the decision, and a statement of the client's right to appeal that decision.

(c) Except as otherwise specified in (b) of this section, the role of the hearing authority is limited to the ascertainment of whether the statutes, regulations, and policies have been properly applied in the case and whether the computation of the amount of financial assistance, if in dispute, is in accordance with them. (Eff. \_\_\_\_/\_\_\_\_/2001, Register \_\_\_\_)

Authority: AS 47.24.011 AS 47.24.017 AS 47.33.920

<sup>43</sup>2 AAC 42.370. DECISION OF HEARING AUTHORITY. Unless the time period is extended by mutual consent of the client and the division, the hearing authority shall render a decision within 90 days after the division receives a request for hearing. (Eff. \_\_\_\_/\_\_\_\_/2001, Register \_\_\_\_)

Authority: AS 47.24.011 AS 47.24.017 AS 47.33.920

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<sup>41</sup> This is DOA's version of DHSS's 7 AAC 49.140, changed to reflect DOA's responsibilities.

<sup>42</sup> This is DOA's version of DHSS's 7 AAC 49.150, 7 AAC 49.160, and 7 AAC 49.170, changed to reflect DOA's responsibilities.

<sup>43</sup> This is DOA's version of DHSS's 7 AAC 49.180, changed to reflect DOA's responsibilities.

<sup>44</sup>2 AAC 42.375. CONTINUATION OF ASSISTANCE; LIABILITY. A recipient of assistance who continues to satisfy all eligibility criteria other than those at issue in the hearing request will, upon filing a hearing request, have the assistance reinstated retroactively or continued until the date that the hearing authority's decision is rendered.

(b) If a request for hearing has caused a recipient's assistance to be reinstated or continued under this section, and the decision of the hearing authority is that the division action at issue was correct, the hearing authority may require that the assistance provided during the hearing process be repaid by the recipient. (Eff. \_\_\_\_/\_\_\_\_/2001, Register \_\_\_\_)

Authority: AS 47.24.011 AS 47.24.017 AS 47.33.920

<sup>45</sup>2 AAC 42.380. RETROACTIVE ASSISTANCE. If the hearing authority, or the director in the case of an appeal under 2 AAC 42.385, determines that the division action at issue was in error, the division shall provide assistance retroactive to the effective date of the erroneous denial, modification, suspension, termination, or reduction. (Eff. \_\_\_\_/\_\_\_\_/2001, Register \_\_\_\_)

Authority: AS 47.24.011 AS 47.24.017 AS 47.33.920

<sup>46</sup>2 AAC 42.385. APPEAL TO THE DIRECTOR; NOTICE OF APPEAL DECISION. (a) A client may file an appeal to the director in writing within 15 days after receipt of the hearing authority's decision. Within 30 days after receipt of the appeal request, the director shall review the hearing record, the hearing authority's decision, and applicable statutes, regulations, and policies, and render a decision on the appeal.

(b) The division shall send the client written notification containing a statement of the decision, the reasons for that decision, and a statement of the client's right to judicial review. The decision of the director constitutes final administrative action. (Eff. \_\_\_\_/\_\_\_\_/2001, Register \_\_\_\_)

Authority: AS 47.24.011 AS 47.24.017 AS 47.33.920

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<sup>44</sup> This is DOA's version of DHSS's 7 AAC 49.190 AND 7 AAC 49.200, changed to reflect DOA's responsibilities.

<sup>45</sup> This is DOA's version of DHSS's 7 AAC 49.210, changed to reflect DOA's responsibilities.

<sup>46</sup> This is DOA's version of DHSS's 7 AAC 49.220 and 7 AAC 49.230, changed to reflect DOA's responsibilities.

<sup>47</sup>2 AAC 42.390. DECISIONS PUBLIC. Subject to state and federal statutes and regulations safeguarding certain financial assistance information, hearing decisions of the division are public information. (Eff. \_\_\_\_/\_\_\_\_/2001, Register \_\_\_\_)

Authority: AS 47.24.011 AS 47.24.017 AS 47.33.920

*Title 2 is amended by adding a new article to read:*

#### ARTICLE 4. GENERAL PROVISIONS.

##### Section

##### 400. Definitions

<sup>48</sup>2 AAC 42.400. DEFINITIONS. Unless the context indicates otherwise, in this chapter,

(1) *"abandonment" has the meaning given in AS 47.24.900;*

(2) *"abuse" has the meaning given in AS 47.24.900;*

(3) *"activities of daily living" has the meaning given in AS 47.33.990;*

(4) *"Alaska longevity bonus" means the cash benefit program administered by the Department of Administration under AS 47.45.010 - 47.45.160;*

(5) *"APA" means the Adult Public Assistance program administered by the division of public assistance under 42 U.S.C. 1381 - 1383 and AS 47.25.430 - 47.25.615;*

(6) *"assisted living home" means a home that has been licensed by the department under AS 47.33 and 7 AAC 75 and that has entered into an assisted living home grant agreement with the department;*

(7) *"caregiver" has the meaning given in AS 47.24.900;*

(8) *"client" means an applicant for, a recipient of, or a person who requests an application for financial assistance under this chapter;*

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<sup>47</sup> This is DOA's version of DHSS's 7 AAC 49.240, changed to reflect DOA's responsibilities.

<sup>48</sup> This is DOA's version of DHSS's 7 AAC 47.900, set out as if all proposed changes to 7 AAC 47.900 will be made, with changes specific to DOA in italics. Some definitions have been deleted because they applied only to 7 AAC 47.

(9) *"commissioner" means the commissioner of the Department of Administration;*

(10) **"department" means the Department of Administration;**

(11) *"director" means the director of the division of senior services;*

(12) *"division" means the division of senior services of the Department of Administration;*

(13) **"division of public assistance" means the division of public assistance of the Department of Health and Social Services;**

(14) **"division of vocational rehabilitation" means the division of vocational rehabilitation of the Department of Labor and Workforce Development;**

(15) *"exploitation" has the meaning given in AS 47.24.900;*

(16) *"financial assistance for the protection of vulnerable adults" means financial assistance authorized under AS 47.24;*

(17) *"hearing authority" means the person appointed under 2 AAC 42.365;*

(18) **"instrumental activities of daily living" has the meaning given in AS 47.33.990;**

(19) **"managing money," as that term is used in the definition of "instrumental activities of daily living" in AS 47.33.990, means the safekeeping and management of a resident's money under AS 47.33.040;**

(20) **"Medicaid" means the medical assistance program administered by the division of medical assistance under 42 U.S.C. 1396 - 1396v and AS 47.07.010 - 47.07.075 and 47.07.900;**

(21) *"neglect" has the meaning given in AS 47.24.900;*

(22) **"personal assistance" has the meaning given in AS 47.33.990;**

(23) *"protective services" has the meaning given in AS 47.24.900;*

(24) "provider" means a person, business, or private or public agency or institution, that offers goods or services of a medical, dental or pharmaceutical nature to the public;

(25) "resident" means a resident of an assisted living home who is receiving financial assistance under this chapter;

(26) "SSI" means the Supplemental Security Income program administered by the federal government under 42 U.S.C. 1381 - 1383c;

(27) "supportive services" has the meaning given in AS 47.24.900;

(28) "vulnerable adult" has the meaning given in AS 47.24.900.  
(Eff. \_\_\_\_/\_\_\_\_/200\_\_, Register \_\_\_\_)

Authority: AS 47.24.011

AS 47.24.017

AS 47.33.920

**TITLE 7. HEALTH AND SOCIAL SERVICES.**

**CHAPTER 47. GENERAL RELIEF.**

**ARTICLE 2. GENERAL RELIEF ASSISTED LIVING HOME CARE.**

**The contents list for article 2 is amended to read:**

**Section**

- 300. Scope
- 310. Assisted living care
- 320. Assisted living home
- 330. Eligible individuals
- 340. Income limits
- 350. Resource limits
- 360. Relative responsibility
- 370. Concurrent applications ; *reimbursement to department by resident or by assisted living home*
- 380. Alternative resources
- 390. Assistance application
- 400. Eligibility determination and placement
- 410. Availability of hearing
- 420. Report of change
- 430. Review of eligibility
- 440. Home grant agreement application
- 450. Payment by individual
- 460. Payment by department
- 470. **Minimum daily reimbursement rates** [RATES]
- 472. Augmented rates**
- 475. Services required to be provided by assisted living homes**
- 480. (Repealed)
- 490. Absence or discharge
- 500. Grant agreement
- 510. Emergency placement
- 520. Repealed



**7 AAC 47.300 is amended to read:<sup>49</sup>**

**7 AAC 47.300. SCOPE.** (a) The department has determined that a need exists among the state's adult population for the availability of nonmedical residential care. Except as provided in (b) of this section, the [THE] purpose of the program described in **7 AAC 47.300 – 7 AAC 47.520** [THIS CHAPTER] is to provide financial assistance to needy adults who are lacking in adaptive behavior to the degree that they require the protective oversight of an assisted living home. The program objective is to enable those adults to obtain the level of care that an individual could receive in the individual's own home from interested friends or relatives and to live in the least restrictive setting possible.

(b) Financial assistance for the protection of vulnerable adults who are residents of assisted living homes licensed by the Department of Administration is provided for in that department's regulations in 2 AAC 42. (Eff. 11/23/80, Register 76; am 1/14/2000, Register 153; am \_\_\_\_/\_\_\_\_/2001, Register \_\_\_\_)

**Authority:** AS 47.05.010                      AS 47.25.120                      AS 47.33.920

**7 AAC 47.310 is amended to read:**

**7 AAC 47.310. ASSISTED LIVING CARE.** Assisted living care is a range of care described in AS 47.33 and 7 AAC 75, that [WHICH] includes more than **housing and food service**, [ROOM AND BOARD] but does not include continuous nursing or medical care. **Assisted living care** [IT] encompasses 24-hour supportive and protective services in the [ALL]<sup>50</sup> activities of [NORMAL] daily living and in the instrumental activities of daily living for an individual who is 18 years of age or older, as those services are described in that individual's residential services contract executed under AS 47.33.210 and assisted living plan prepared under AS 47.33.220 and 47.33.230. The care is provided in a residential environment and encourages independent living to the extent possible for each resident. (Eff. 11/23/80, Register 76; am 1/14/2000, Register 153; am \_\_\_\_/\_\_\_\_/2001, Register \_\_\_\_)

**Authority:** AS 47.05.010                      AS 47.33.210                      AS 47.33.230  
AS 47.25.120                      AS 47.33.220                      AS 47.33.920

<sup>49</sup> This section is being changed to help clarify responsibilities of the Department of Health and Social Services and the Department of Administration.

<sup>50</sup> In response to public comments, "all" was replaced with "the" and reference to the contract and assisted living plan was added, to clarify that only those activities described in each resident's contract and plan are required to be provided. This better reflects the language of the statutes and other existing law, which state that assisted living care is more than room and board.

*7 AAC 47.320 is amended to read:*<sup>51</sup>

**7 AAC 47.320. ASSISTED LIVING HOME.** In **7 AAC 47.300 – 7 AAC 47.520** [THIS CHAPTER], an assisted living home is a home licensed by the department [DEPARTMENT OF HEALTH AND SOCIAL SERVICES OR BY THE DEPARTMENT OF ADMINISTRATION,] under AS 47.33 and 7 AAC 75, and with which the department has entered into an assisted living home grant agreement. (Eff. 11/23/80, Register 76; am 1/14/2000, Register 153; am\_\_\_\_/\_\_\_\_, 2001, Register \_\_\_\_)

**Authority:** AS 47.05.010 AS 47.25.170 AS 47.33.920

*7 AAC 47.330 is repealed and readopted to read:* <sup>52</sup>

**7 AAC 47.330. ELIGIBLE INDIVIDUALS.** A resident of the state is eligible to receive assistance under 7 AAC 47.300 - 7 AAC 47.520 if the individual

(1) is 18 years of age or older;

(2) has been assessed for eligibility by a *case manager* or other person approved by the *department*;

(3) has

(A) a disability that is attributable to a *severe and persistent mental illness*, mental retardation, cerebral palsy, epilepsy, autism or another condition closely related to mental retardation that significantly impairs intellectual functioning and adaptive behavior; *and*

(B) a *significant deficit in daily living skills necessary to function without supervision or support*;

(4) without assisted living care is subject to, or at risk of, abuse, neglect, or exploitation by others;

(5) does not have income that exceeds the limit permitted by 7 AAC 47.340;

(6) does not have resources that exceed the amount permitted by 7 AAC 47.350;

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<sup>51</sup> This section is being changed to help clarify departmental responsibilities.

<sup>52</sup> This section is being changed to help clarify departmental responsibilities.

(7) has applied for the cash assistance programs as required by 7 AAC 47.370(a); and

(8) has applied for *financial assistance from other agencies, organizations, or programs as required by 7 AAC 47.370,*<sup>53</sup> **and has exhausted the use of alternative resources, if any, as required by 7 AAC 47.380(a).** (Eff. 11/23/80, Register 76; am 6/18/82, Register 82; am 1/14/2000, Register 153; am \_\_\_\_/\_\_\_\_/2001, Register \_\_\_\_)

**Authority:** AS 47.05.010                      AS 47.25.130                      AS 47.33.920  
AS 47.25.120

**7 AAC 47.360(c) is amended to read:**

(c) On the basis of the department's determination under (b)(4) of this section, the department **may** [WILL, IN ITS DISCRETION,] consider as available to the individual an appropriate portion of the child's income and resources. If the child fails or refuses to support the individual and to make available the income and resources considered available, the department will determine the individual's eligibility for assistance under **7 AAC 47.300 – 7 AAC 47.520** [THIS CHAPTER] without regard to the child's income and resources. In that event, the department will give the child written notice of the decision and **may** [WILL, IN ITS DISCRETION,] file a civil action to recover the child's share of the cost of care. (Eff. 11/23/80, Register 76; am 1/14/2000, Register 153; am \_\_\_\_/\_\_\_\_/2001, Register \_\_\_\_)

**Authority:** AS 47.05.010                      AS 47.25.240                      AS 47.33.920  
AS 47.25.230

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<sup>53</sup> This paragraph was changed to make it consistent with similar changes to this chapter, and to clarify the intent of the existing requirement that all alternative resources are to be applied before a person is eligible for assistance under this chapter, updating the regulation to reflect changes in the law since this regulation was first written.

7 AAC 47.370 is amended, including adding new subsections, to read:<sup>54</sup>

**7 AAC 47.370. CONCURRENT APPLICATIONS; REIMBURSEMENT TO DEPARTMENT BY RESIDENT AND BY ASSISTED LIVING HOME.** (a) In addition to applying for the programs listed in 7 AAC 47.380(a) and (b), an [AN] individual who applies for assistance under 7 AAC 47.300 - 7 AAC 47.520 must also submit an application to each [THE APPROPRIATE] agency, organization, or program that provides financial assistance for which the individual may be eligible, including Social Security, SSI, Medicaid, APA, and the Home and Community-Based Waiver Services Program under 7 AAC 43.1000 - 7 AAC 43.1100 [THE ALASKA LONGEVITY BONUS]. Each concurrent application must be submitted within 30 days after filing an application for assistance under 7 AAC 47.300 - 7 AAC 47.520. The department may [WILL, IN ITS DISCRETION,] assist the individual in submitting each application [THE APPLICATIONS]. The individual's failure to apply for each designated program will result in denial of assistance under 7 AAC 47.300 – 7 AAC 47.520, unless the department determines that the individual is patently ineligible for a specified program.

(b) The department may [WILL, IN ITS DISCRETION,] also require an individual to apply for other benefits for which the department believes the individual is eligible. These benefits include veteran's and disability insurance benefits, worker's compensation, unemployment compensation, retirement system benefits, awards, and annuities. The individual's failure to apply for the benefits, after being given 30 days' written notice of the request, may result in denial of assistance under 7 AAC 47.300 - 7 AAC 47.520.

(c) A resident of an assisted living home, placed in the home under 7 AAC 47.300 – 7 AAC 47.520, who is later determined eligible for other assistance applied for as required by (a) and (b) of this section shall

(1) inform the department of any payments or benefits for which the resident has been determined eligible; and

(2) forward to the department any retroactive payments received, up to the amount the department has provided for that resident under 7 AAC 47.300 – 7 AAC 47.520.

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<sup>54</sup> This section was changed to make it consistent with similar changes to this chapter, and to clarify the intent of the existing requirement that all alternative resources are to be applied before a person is eligible for general relief, updating the regulation to reflect changes in the law since this regulation was first written.

(d) If an assisted living home receives a retroactive payment from another agency, organization, or program for providing care to a resident receiving assistance under 7 AAC 47.300 – 7 AAC 47.520, the administrator shall forward that payment to the department, up to the amount the department has provided for that resident under 7 AAC 47.300 – 7 AAC 47.520.

(e) The department may require an assignment of rights to bill for and receive reimbursement for assistance provided under 7 AAC 47.300 – 7 AAC 47.520 from

(1) a resident receiving assistance under 7 AAC 47.300 – 7 AAC 47.520; or

(2) an assisted living home that is entitled to receive a retroactive payment from another agency, organization, or program for providing care to a resident receiving assistance under 7 AAC 47.300 – 7 AAC 47.520. (Eff. 11/23/80, Register 76; am 6/18/82, Register 82; am 1/14/2000, Register 153; am \_\_\_\_/\_\_\_\_/2001, Register \_\_\_\_)

Authority: AS 47.05.010      AS 47.25.120      AS 47.33.920

**7 AAC 47.380 is repealed and readopted to read:**<sup>55</sup>

**7 AAC 47.380. ALTERNATIVE RESOURCES.** (a) An individual who is eligible for one or more of the following programs will not be eligible for assistance under 7 AAC 47.300 – 7 AAC 47.520 until available benefits under each of the programs have been exhausted:

(1) a 24-hour care or treatment program financed by the office of alcoholism and drug abuse under AS 47.37; and

(2) an inpatient mental health program for the mentally ill financed by the department under AS 47.30.010 - 47.30.340.

(b) An individual who is eligible for assisted living care, or for a training program for the developmentally disabled under AS 47.80, will be eligible for assistance under 7 AAC 47.300 – 7 AAC 47.520 only if there is space available in an assisted living home after placement of individuals who are not eligible for that type of program.

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<sup>55</sup> This section was changed to make it consistent with similar changes to this chapter, and to clarify the intent of the existing requirement that all alternative resources are to be applied before a person is eligible for general relief, updating the regulation to reflect changes in the law since this regulation was first written.

*(c) An individual who has applied for residential supported living services under 7 AAC 43.1000 - 7 AAC 43.1100 will not be placed in an assisted living home under 7 AAC 47.300 – 7 AAC 47.520 until residential supportive living services have been authorized under 7 AAC 43.1000 - 7 AAC 43.1100, unless care cannot be provided in that individual's home, or in a nursing facility, acute care hospital, or other appropriate facility.*

(d)[(c)] An individual must apply for each program specified in (a) and (b) of this section for which the department believes the individual is eligible and must apply for the program specified in (c) of this section as required by 7 AAC 47.370. The department may [WILL, IN ITS DISCRETION,] assist the individual in submitting an application. An individual who fails to apply for each designated program, after being given 30 days' written notice of the requirement, will be denied assistance under 7 AAC 47.300 - 7 AAC 47.520. (Eff. 11/23/80, Register 76; am 6/18/82, Register 82; am 1/14/2000, Register 153; am \_\_\_/\_\_\_/2001, Register \_\_\_\_\_)

**Authority:** AS 47.05.010                      AS 47.25.140                      AS 47.33.920  
AS 47.25.120

**7 AAC 47.390 is amended to read:**

**7 AAC 47.390. ASSISTANCE APPLICATION.** (a) A person age 18 or older may apply for assistance under **7 AAC 47.300 – 7 AAC 47.520** [THIS CHAPTER] on the form provided at a district office of the department. The **applicant** [INDIVIDUAL], or a responsible person acting on behalf of the **applicant** [INDIVIDUAL], must complete the application.

(b) An **applicant** [INDIVIDUAL] must be available for an interview at a district office of the department and must furnish evidence that shows eligibility for the assistance. The department **may** [WILL, IN ITS DISCRETION,] dispense with the personal interview requirement if distance, weather conditions, available transportation, or the physical or mental condition of the **applicant** [INDIVIDUAL] would make the requirement unduly harsh, and if other reliable evidence is available.

(c) If the department determines that the **applicant** [INDIVIDUAL] meets the eligibility criteria established in 7 AAC 47.340, 7 AAC 47.350, **7 AAC 47.370**, and 7 AAC 47.380, the **applicant** [INDIVIDUAL] must submit to a medical examination by a licensed physician chosen by the **applicant** [INDIVIDUAL] from those physicians enrolled with the department under 7 AAC 43. The physician shall furnish the department a written report on the form provided by the department. The department **may** [WILL, IN ITS DISCRETION,] pay the costs of the examination and necessary transportation to and from the place of examination if the **applicant** [INDIVIDUAL] requires immediate protection and if the department has funding available.

(d) The department **may** [WILL, IN ITS DISCRETION,] dispense with the medical examination requirement in (c) of this section if a current medical report is available. (Eff. 11/23/80, Register 76; am 1/14/2000, Register 153; am \_\_\_\_/\_\_\_\_/2001, Register \_\_\_\_)

**Authority:** AS 47.05.010 AS 47.25.150 AS 47.33.920  
AS 47.25.120 AS 47.25.160

**7 AAC 47.400(b) is amended to read:**

**7 AAC 47.400. ELIGIBILITY DETERMINATION AND PLACEMENT.**

(b) After consulting with an eligible individual and available family members, the department will select an appropriate assisted living home with available space **for placement of that individual**. The division of vocational rehabilitation, in the Department of Education and Early Development, will be consulted on the placement of a vocational rehabilitation client.

(Eff. 11/23/80, Register 76; am 1/14/2000, Register 153; am \_\_\_\_/\_\_\_\_/2001, Register \_\_\_\_)

**Authority:** AS 47.05.010 AS 47.25.170 AS 47.33.920  
AS 47.25.160 AS 47.25.200

**7 AAC 47.430(b) is amended to read:**

**7 AAC 47.430. REVIEW OF ELIGIBILITY.**

[**Note:** no changes are proposed for (a) of this section]

(b) An individual who receives assistance under **7 AAC 47.300 – 7 AAC 47.520** [THIS CHAPTER], or a responsible person acting on behalf of the individual, must annually complete a review application. As a result of this review procedure, the department **may** [WILL, IN ITS DISCRETION,] continue, adjust, suspend, or terminate the assistance.

[**Note:** no changes are proposed for (c) of this section]

(Eff. 11/23/80, Register 76; am 1/14/2000, Register 153; am \_\_\_\_/\_\_\_\_/2001, Register \_\_\_\_)

**Authority:** AS 47.05.010 AS 47.25.200 AS 47.33.920

*7 AAC 47.450(a), (b), and (d) are amended to read:*<sup>56</sup>

**7 AAC 47.450. PAYMENT BY INDIVIDUAL.** (a) The total monthly countable income considered available to an individual under 7 AAC 47.340 and 7 AAC 47.360, plus Adult Public Assistance benefits and the Alaska longevity bonus payment, if applicable, **and any other financial assistance for which the individual may be eligible** will be applied first toward the personal-needs allowance required by (b) of this section, and then toward the cost of the individual's assisted living care.

(b) An individual may retain the following amount of the total monthly countable income as a personal-needs allowance, which may be used for clothing, unreimbursable medical expenses, and personal incidentals:

(1) **\$100** [\$75]<sup>57</sup> for an individual who is eligible for Medicaid or chronic and acute medical assistance coverage; and

(2) \$150 for an individual who is not eligible for Medicaid or chronic and acute medical assistance coverage.

[**Note:** no changes are proposed for (c) of this section]

(d) An assisted living home may not request or accept from or on behalf of an individual who receives assistance under **7 AAC 47.300 – 7 AAC 47.520** [THIS CHAPTER]

**(1)** any payment in excess of the amount specified in (c) of this section; **or**

**(2) any payment from another agency, organization, or program for any portion of the resident's care provided under this chapter, and shall reimburse the department as specified in 7 AAC 47.370(d) if such excess payment is received.** Eff. 11/23/80, Register 76; am 8/12/82, Register 83; am 1/14/2000, Register 153; am \_\_\_\_/\_\_\_\_/2001, Register \_\_\_\_)

Authority	AS 47.05.010	AS 47.25.170	AS 47.33.920
	AS 47.25.130		

<sup>56</sup> This section was changed to make it consistent with similar changes to this chapter, and to clarify the intent of the existing requirement that all alternative resources are to be applied before a person is eligible for assistance under this chapter, updating the regulation to reflect changes in the law since this regulation was first written.

<sup>57</sup> This change is made to be consistent with 7 AAC 47.460.



**7 AAC 47.460(a) and (d) are amended to read:<sup>58</sup>**

**7 AAC 47.460. PAYMENT BY THE DEPARTMENT.** (a) For an individual who is placed by the department in **an assisted living** [A] home **under 7 AAC 47.400** [WITH WHICH THE DEPARTMENT HAS ENTERED INTO AN ASSISTED LIVING HOME GRANT AGREEMENT], the department will pay the appropriate **minimum daily reimbursement** [STANDARD PAYMENT] rate established by 7AAC 47.470, multiplied by the number of days of actual residence, minus the individual's share of the cost of care as calculated under 7AAC 47.450. The payment will be made directly to the home on a monthly basis **for services provided under 7 AAC 47.475.**

[Note: no changes are proposed for (b) and (c) of this section]

(d) If an individual placed by the department in an assisted living home has no income, **the department may pay** a personal-needs allowance of **\$100** [\$75 WILL, IN THE DEPARTMENT'S DISCRETION, AND WITH PRIOR DEPARTMENT APPROVAL, BE PAID] monthly to the home **for that individual** [BY THE DEPARTMENT]. The home shall give this personal needs allowance to the individual, **unless the home has obtained written authorization under 7 AAC 75.310 to manage the individual's personal needs allowance, or management of the allowance is included in the individual's residential services contract executed under AS 47.33.210 and assisted living plan prepared under AS 47.33.220 and 47.33.230.** (Eff. 11/23/80, Register 76; am 6/18/82, Register 82; am 8/12/82, Register 83; am 1/14/2000, Register 153; am \_\_\_\_/\_\_\_\_/2001, Register \_\_\_\_)

<b>Authority:</b>	AS 47.05.010	AS 47.25.170	AS 47.33.920
	AS 47.25.130	<b><u>AS 47.25.195</u></b>	

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<sup>58</sup> In response to public comments, (d) of this section was changed to allow this issue to be addressed in the contract or plan.

**7 AAC 47.470 is repealed and readopted to read:**

**7 AAC 47.470. MINIMUM DAILY REIMBURSEMENT RATES.** (a) The minimum daily reimbursement rate set in this subsection is for each individual placed in an assisted living home by the department under 7 AAC 47.400 and is to assist in payment for *housing and food service, and for the basic services described in 7 AAC 47.475*. Subject to (b) and (c) of this section, the minimum daily reimbursement rate is

- (1) \$50 from September 1, 2000 through June 30, 2001;
- (2) \$60 from July 1, 2001 through June 30, 2002; and
- (3) \$70 beginning July 1, 2002.

(b) The rate set in (a) of this section will be adjusted to reflect regional differences in the cost of doing business, based on the region in which the provider is located. The rate adjustments, listed by the designated planning regions described at page 62 of the Alaska State Plan 1993-1997, issued by the Older Alaskans Commission in June 1993, and adopted by reference, are as follows:

- (1) for the Anchorage region – no adjustment;
- (2) for the southcentral region, not including Anchorage – 1.04;
- (3) for the southeast region – no adjustment;
- (4) for the interior region – 1.15;
- (5) for the southwest region – 1.33; and
- (6) for the northwest region – 1.38.

(c) The department will annually review the minimum daily reimbursement rate in (a) of this section and the multiplying factor in (b) of this section and may adjust the rate to reflect changes in the United States Department of Labor consumer price index and the state cost-of-living differentials determined by the Department of Administration *and the Alaska Commission on Aging*.

(d) The minimum daily reimbursement rate paid on behalf of a resident will be discontinued for any day the resident is not living in the assisted living home unless the department approves a temporary absence from the home, not to exceed 30 days.

*(e) For purposes of determining eligibility for financial assistance under this section and from other agencies, organizations, or programs, 40 percent of the minimum daily rate under (a) of this section, before adjustment under (b) or (c) of this section, will be considered payment for housing and food service, with the balance considered payment for services. If a resident is eligible for financial assistance from another agency, organization, or program for the cost of services provided in the assisted living home, that resident will be eligible under this section for only housing and food service.<sup>59</sup> (Eff. 11/23/80, Register 76; am 8/12/82, Register 83; am 1/14/2000, Register 153; am \_\_\_\_/\_\_\_\_/2001, Register \_\_\_\_)*

**Authority:** AS 47.05.010 AS 47.25.170 AS 47.33.920  
AS 47.25.130 **AS 47.25.195**

**Editor's note:** A copy of the Alaska State Plan 1993-1997, issued by the Older Alaskans Commission in June 1993, and adopted by reference in 7 AAC 47.470, may be reviewed at the offices of the Division of Senior Services, 3601 C Street, Suite 310, Anchorage, AK 99503; telephone (907) 269-3666.

**7 AAC 47 is amended by adding a new section to read:**

**7 AAC 47.472. AUGMENTED RATES.** (a) The department may augment the minimum daily reimbursement rate set in 7 AAC 47.470 for a resident of an assisted living home who

(1) is receiving community support services from the local community mental health center or another local service provider;

(2) has a primary diagnosis of severe and persistent mental illness; and

(3) qualifies for one or more of the categories in (d) of this section.

(b) An augmented rate approved under this section will not exceed \$35 per day. Augmented funding will be restricted to very limited periods of time.

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<sup>59</sup> This section was added after review of public comments indicated there was a misunderstanding regarding the intended use of general relief assistance. Existing law states it is for "more than room and board," so a percentage is being set in regulation to aid in applying for assistance from other agencies, organizations, and programs for the amount not covered by general relief.

**(c) The local community mental health center shall determine**

**(1) if a resident of an assisted living home is eligible for an augmented rate under this section;**

**(2) the category of need under (c) of this section for which the resident is qualified; and**

**(3) the number of days that augmented funding should be provided.**

**(d) The department may approve an augmented rate for one or more of the following categories for a person described in (a) of this section, not to exceed \$35 per day for that person:**

**(1) Category I, \$7 per day: for each resident of an assisted living home with 16 or fewer beds that provides 24-hour per day awake staff supervision in the home; for a provider that operates more than one assisted living home in a community, financial assistance under this category *will be limited to no more than 16 residents*;<sup>60</sup>**

**(2) Category II: only one Category II rate may be applied to a resident who qualifies for Category II, as follows:**

**(A) emergency placement, \$15 per day: for a resident who must be placed in an assisted living home within 24 hours of referral; an augmented rate under this subparagraph may be approved for up to 31 days;**

**(B) temporary placement, \$10 per day: for a resident who needs to be placed in an assisted living home for a short time until arrangements can be made for permanent placement elsewhere; an augmented rate under this subparagraph may be approved for up to 31 days unless the center recommends an extension; any extension under this subparagraph may not exceed 90 days; or**

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<sup>60</sup> In response to public comments, this change was made to replace the previous approach that would have limited assistance to one of the homes.

(C) transitional services, \$10 per day: for a resident who is being placed in an assisted living home for the first time or after an absence from the home of six months or more; the local community mental health center may recommend this augmented rate if the resident has been away less than six months for a resident who is very unstable and needs significantly more staff attention or services than other residents in the home; an augmented rate under this subparagraph may be approved for up to 31 days unless the center recommends an extension; any extension under this subparagraph may not exceed 90 days; and

(3) Category III, up to \$35 per day: this category will be used only in the most extreme cases and is expected to be used very rarely; no more than four residents statewide will receive financial assistance under this category at the same time; it is intended for a resident who is without access to other sources of financial assistance and who has specific unusual circumstances or extremely special needs that require a significant increase in the level of services for continued community placement.

(e) If the local community mental health center finds that a resident is eligible for an augmented rate, the center shall make a recommendation for an augmented rate to the Division of Mental Health and Developmental Disabilities for its approval.

(f) If the division finds that a resident is eligible for an augmented rate and approves the local community mental health center's recommendation, the center shall re-evaluate each resident receiving financial assistance under Category III to determine if there is a need to adjust, extend, or discontinue the resident's augmented rate. The center shall perform this re-evaluation at least once every three months. The center shall discuss each resident's ongoing needs with staff of the assisted living home.

(g) An augmented rate paid on behalf of a resident will be discontinued for any day the resident is not living in the assisted living home. (Eff. \_\_\_\_/\_\_\_\_/2001, Register \_\_\_\_)

<b>Authority:</b>	AS 47.05.010	AS 47.25.170	AS 47.33.920
	AS 47.25.130	AS 47.25.195	

7 AAC 47 is amended by adding a new section to read:<sup>61</sup>

**7 AAC 47.475. SERVICES REQUIRED TO BE PROVIDED BY ASSISTED LIVING HOMES.** (a) An assisted living home must provide *housing, food service, and all other* services that are required to meet the purposes of 7 AAC 47.300 – 7 AAC 47.520, AS 47.33, and 7 AAC 75. *Housing, food service, and other* services must be provided in a way that promotes each resident's safety, welfare, and independence and that assures protection of each resident's rights under AS 47.33.300 -- 47.33.360.

(b) *In addition to the housing and food service requirements of 7 AAC 75, the basic services required under this section, depending on each resident's needs as described in each resident's residential services contract executed under AS 47.33.210 and assisted living plan prepared under AS 47.33.220 and 47.33.230, include*

- (1) the general range of care described in 7 AAC 47.310;
- (2) protective services;
- (3) personal assistance;
- (4) supportive services;
- (5) assistance with the activities of daily living and the instrumental activities of daily living indicated in a resident's assisted living plan;
- (6) an organized program that encourages participation in activities within the home and the community;
- (7) *general* awareness of each resident's general whereabouts, in the home and in the community;
- (8) monitoring each resident's activities while on the premises; and
- (9) arranging for or providing transportation to and from appointments if a resident is unable to take public transportation, and arranging for or providing an escort, if needed.

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<sup>61</sup> In response to public comments, this section was clarified to reflect that the services are those set out in each resident's contract and plan.

(c) In addition to the basic services listed in (b) of this section, an assisted living home may provide the additional health-related services described in AS 47.33.020(c)-(i).

*(d) For purposes of determining eligibility for financial assistance from other agencies, organizations, or programs for services provided, 40 percent of the minimum daily rate under 7 AAC 47.470(a), before adjustment under 7 AAC 47.470(b) or (c), will be considered payment for housing and food service, with the balance considered payment for services. If a resident is eligible for financial assistance from another agency, organization, or program for the cost of services provided in the assisted living home, that resident will be eligible under 7 AAC 47.300 – 7 AAC 47.520 for only housing and food service.*<sup>62</sup> (Eff. \_\_\_\_/\_\_\_\_/2001, Register \_\_\_\_)

Authority: AS 47.05.010  
AS 47.25.130

AS 47.25.170  
AS 47.25.195

AS 47.33.920

**7 AAC 47.500 is amended to read:**<sup>63</sup>

**7 AAC 47.500. GRANT AGREEMENT.** (a) An assisted living home grant agreement between the department and an assisted living home issued under 7 AAC 47.300 – 7 AAC 47.520 [THIS CHAPTER] will

(1) include the appropriate minimum daily reimbursement [STANDARD PAYMENT] rate for an individual placed in a home by the department; [,] and

(2) incorporate by reference each resident's residential service contract executed under AS 47.33.210 and assisted living plan prepared under AS 47.33.220 and 47.33.230, that describe [A DESCRIPTION OF] the services the home must provide the individual in accordance with AS 47.24, [AND] AS 47.33, 7 AAC 47.475, and 7 AAC 75.

(b) A home must agree

(1) to accept as residents those individuals referred by the department;

<sup>62</sup> This subsection was added after review of public comments indicated there was a misunderstanding regarding the intended use of the financial assistance provided under this chapter. Existing law states it is for “more than room and board,” so a percentage is being set in regulation to aid in applying for assistance from other agencies, organizations, and programs for the amount not covered by financial assistance under this chapter.

<sup>63</sup> This section was changed to clarify that the grant agreement itself will not list the services to be provided, but will refer to each resident's contract and plan.

(2) to enter into an admission and services agreement with the department for each individual placed in its care **and provide the services described in the documents incorporated by reference under (a)(2) of this section;**

(3) to comply with the rule established in 7 AAC 47.450(d); and

(4) to report to the department any absence or discharge required to be reported by 7 AAC 47.490.

(c) The agreement may be terminated by either party upon **30** [60] days' advance written notice to the other party. The agreement may be terminated by the department if the home's license is [REVOKED OR] modified under AS 47.33.550 or 7 AAC 75.080, or if the home fails to comply with the terms contained in (a) and (b) of this section. **The department may immediately terminate an agreement if the home's license is revoked.** (Eff. 11/23/80, Register 76; am 1/14/2000, Register 153; am \_\_\_\_/\_\_\_\_/2001, Register \_\_\_\_)

**Authority:** AS 47.05.010 AS 47.25.170 AS 47.33.920

**7 AAC 47.900 is repealed and readopted to read:**

**7 AAC 47.900. DEFINITIONS. In this chapter**

(1) "activities of daily living" has the meaning given in AS 47.33.990;

(2) "Alaska longevity bonus" means the cash benefit program administered by the Department of Administration under AS 47.45.010 - 47.45.160;

(3) "APA" means the Adult Public Assistance program administered by the division of public assistance under 42 U.S.C. 1381 - 1383 and AS 47.25.430 - 47.25.615;

(4) "assisted living home" means a home that has been licensed by the department under AS 47.33 and 7 AAC 75 and that has entered into an assisted living home grant agreement with the department;

(5) "central office" means the Juneau office of the division of public assistance;



(6) "department" means the Department of Health and Social Services<sup>64</sup>;

(7) "district office" means one of the local offices of the division of public assistance, that is staffed to accept applications for cash, food, medical, and adult residential care assistance;

(8) "division" means the division of public assistance of the Department of Health and Social Services;

(9) "division of family and youth services" means the division of family and youth services of the Department of Health and Social Services;

(10) "division of medical assistance" means the division of medical assistance of the Department of Health and Social Services;

(11) "division of mental health and developmental disabilities" means the division of mental health and developmental disabilities of the Department of Health and Social Services;

(12) "division of public assistance" means the division of public assistance of the Department of Health and Social Services;

(13) "division of vocational rehabilitation" means the division of vocational rehabilitation of the Department of Labor and Workforce Development;

(14) "general relief medical" means the medical assistance program administered by the division of public assistance under AS 47.25.120 - 47.25.300;

(15) "instrumental activities of daily living" has the meaning given in AS 47.33.990;

(16) "legend drug" means a drug that may be purchased only on the prescription of a physician or dentist;

(17) "managing money," as that term is used in the definition of "instrumental activities of daily living" in AS 47.33.990, means the safekeeping and management of a resident's money under AS 47.33.040;

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<sup>64</sup> The definition of "department" has been changed to remove the reference to the Department of Administration, whose regulations will now appear in 2 AAC 42.

(18) "Medicaid" means the medical assistance program administered by the division of medical assistance under 42 U.S.C. 1396 - 1396v and AS 47.07.010 - 47.07.075 and 47.07.900;

(19) "over-the-counter drug" means a substance for diagnosis, treatment, or prevention of disease that may be purchased without a prescription;

(20) "personal assistance" has the meaning given in AS 47.33.990;

(21) "protective services" means services that are intended to prevent or alleviate harm resulting from abandonment, exploitation, abuse, neglect, or self-neglect;

(22) "provider" means a person, business, or private or public agency or institution, that offers goods or services of a medical, dental or pharmaceutical nature to the public;

(23) "regional manager" means an employee of the division of public assistance who has direct administrative responsibility for the operation of district offices within his geographic region of the state;

(24) "resident" means a resident of an assisted living home who is receiving financial assistance under this chapter;

(25) "SSI" means the Supplemental Security Income program administered by the federal government under 42 U.S.C. 1381 - 1383c;

(26) "supportive services" has the meaning given in AS 47.33.990.  
(Eff. 3/23/78, Register 65; am 11/23/80, Register 76; am 1/27/82, Register 81; am 4/15/82, Register 82; am 5/25/82, Register 84; am 11/20/94, Register 132; am 1/14/2000, Register 153; am \_\_\_/\_\_\_/2001, Register \_\_\_)

**Authority:** AS 47.05.010 AS 47.25.120 **AS 47.33.920**